IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1975 OF 2007

Ashok Jeevanlal Gohil ..Petitioner

Vs.

Mrs. Daksha Ashok Gohil and anr. ..Respondents

Mr. Gopal R. Hegde for petitioner.
Mr. R.R. Salvi for respondent no.1.
Mr. P.A. Pol, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 29, 2007.

P.C.:

1. Heard Mr. Hegde the learned counsel for the petitioner-husband and Mr. Salvi the learned counsel appears for the respondent no.1-wife. The petitioner and respondent no.1 were married at Mumbai on 21/1/1996 and begot two children from the said wedlock, son - Pritesh and daughter - Shweta. The wife claims that she was driven out of the matrimonial home along with minor children on 4/7/1999 and she had filed a complaint with the Sakinaka Police Station on 18/8/1999 which came to be registered as C.R. No.

230 of 1999. The husband was arrested on 23/8/1999 and was subsequently released on cash bail of Rs.3000/- by the learned Metropolitan Magistrate at Andheri, Mumbai. C.R. No. 230 of 1999 is now Criminal Case No.1385/P/1999 pending before the learned Metropolitan Magistrate at Andheri, Mumbai. By this petition filed under Article 227 of the Constitution read with Section 482 of Cr.P.C. the petitioner-husband prays for quashing the said complaint on account of settlement in terms of the consent terms between the parties signed on 5/4/2007 as well as 7/4/2007. The husband has filed M.J. Petition No. 1008 of 1999 which has been allowed to be converted into Petition under Section 13-B of the Hindu Marriage Act, 1955 after the parties signed the consent terms. Both the parties are present in the court.

2. Mr. Salvi the learned counsel for the respondent no.1 has placed on record her affidavit in which the wife has admitted that on 5/4/2007 consent terms were signed and an amount of Rs.2,00,000/- came to be deposited in the Family Court at Bandra towards

permanent alimony and maintenance amount by the husband and as per the conditional consent terms signed on 7/4/2007 she would be entitled to withdraw the said amount only after quashing of Criminal Case No. 1385/P/1999, presently pending on the file of the learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. She further states that since she has settled the matrimonial discord with petitioner, no useful purpose would be served by pursuing the pending complaint and, therefore, she has prayed for quashing the same so that she can approach the learned Metropolitan Magistrate and apply for withdrawal of the complaint and at the same time after quashing the complaint, the pending petition under Section 13-B of the Hindu Marriage Act, 1955 also could be decided.

3. Hence, by consent of respondent no.1, the petition is allowed in terms of prayer clause (a) and consequently the respondent no.1-wife is at liberty to approach the Family Court and withdraw the deposited amount of Rs.2,00,000/-.

(B.H. Marlapalle,J.)